



House of Representatives

General Assembly

File No. 104

January Session, 2015

Substitute House Bill No. 5461

House of Representatives, March 19, 2015

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPOSING A TAX ON SUGARY SOFT DRINKS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015, and applicable to sales*
2 *occurring on and after said date*) (a) For purposes of this section:

3 (1) "Consumer" means any person who purchases a soft drink for
4 personal consumption;

5 (2) "Person" means "person" as defined in subdivision (1) of section
6 12-407 of the general statutes;

7 (3) "Retailer" means "retailer" as described in subdivision (12) of
8 section 12-407 of the general statutes; and

9 (4) "Soft drink" means any carbonated nonalcoholic beverage that is
10 intended for human consumption and contains any added caloric
11 sweetener.

12 (b) A tax is hereby imposed on the purchase of any soft drink, at a

13 rate of one cent per ounce of such soft drink. Said tax shall be in
14 addition to any tax otherwise applicable to any such transaction. Said
15 tax shall be paid by the consumer to the retailer and each retailer shall
16 collect from the consumer the full amount of the tax imposed by this
17 section.

18 (c) (1) The tax collected by a retailer pursuant to this section is due
19 and payable to the Commissioner of Revenue Services monthly on or
20 before the last day of the month next succeeding each monthly period.

21 (2) On or before the last day of the month following each monthly
22 period a return for the preceding period shall be filed with the
23 commissioner in such form as the commissioner may prescribe.
24 Returns shall be signed by the person required to file the return or by
25 such person's authorized agent but need not be verified by oath,
26 provided a return required to be filed by a corporation shall be signed
27 by an officer of such corporation.

28 (3) Any retailer who fails to pay the tax collected pursuant to this
29 section within the time required shall pay a penalty of fifteen per cent
30 of the tax or fifty dollars, whichever amount is greater, in addition to
31 the tax, plus interest at the rate of one per cent per month or fraction
32 thereof from the due date of such tax to the date of payment. Subject to
33 the provisions of section 12-3a of the general statutes, the
34 commissioner may waive all or any part of the penalties provided
35 under this section when it is proven to the satisfaction of the
36 commissioner that failure to pay any tax was due to reasonable cause
37 and was not intentional or due to neglect.

38 (4) The commissioner, if he or she deems it necessary in order to
39 ensure payment to or facilitate the collection by the state of the amount
40 of taxes, may permit or require returns and payment of the amount of
41 taxes for other than monthly periods.

42 (5) The commissioner for good cause may extend the time for
43 making any return and paying any amount required to be paid under
44 this section if a written request therefor is filed with the commissioner

45 together with a tentative return that shall be accompanied by a
46 payment of the tax, which shall be estimated in such tentative return,
47 on or before the last day for filing the return. Any retailer to whom an
48 extension is granted shall pay, in addition to the tax, interest at the rate
49 of one per cent per month or fraction thereof from the date on which
50 the tax would have been due without the extension until the date of
51 payment.

52 (d) For calendar quarters ending on or after December 31, 2015, the
53 Commissioner of Revenue Services shall deposit the amounts received
54 by the state from the tax imposed under subsection (b) of this section
55 into the soft drink tax account, established pursuant to section 2 of this
56 act, except, after notification to and approval by the Secretary of the
57 Office of Policy and Management, the commissioner may deduct and
58 retain from such amounts received an amount equal to the costs of
59 administering the provisions of this section.

60 (e) The administration of this section is vested in the Commissioner
61 of Revenue Services. All forms necessary and proper for the
62 enforcement of this section shall be prescribed and furnished by the
63 commissioner. The commissioner may prescribe regulations, in
64 accordance with chapter 54 of the general statutes, to carry into effect
65 the provisions of this section, which regulations and subsequent
66 rulings, when reasonably designed to carry out the intent and purpose
67 of this section, shall be prima facie evidence of its proper
68 interpretation. The commissioner shall, at least annually, and more
69 often in his or her discretion, publish for distribution all regulations
70 adopted pursuant to this subsection and such rulings as appear to the
71 commissioner to be of general interest.

72 (f) The provisions of sections 12-548 to 12-554, inclusive, of the
73 general statutes and section 12-555a of the general statutes shall apply
74 to the provisions of this section in the same manner and with the same
75 force and effect as if the language of said sections 12-548 to 12-554,
76 inclusive, and said section 12-555a had been incorporated in full into
77 this section and had expressly referred to the tax under this section,

78 except to the extent that any provision is inconsistent with a provision
79 in this section.

80 Sec. 2. (NEW) (*Effective October 1, 2015*) There is established an
81 account to be known as the "soft drink tax account" which shall be a
82 separate, nonlapsing account within the General Fund. The account
83 shall contain any moneys required by law to be deposited in the
84 account. Moneys in the account shall be expended by the Department
85 of Public Health for purposes of public education and outreach
86 regarding obesity, including childhood obesity, heart disease and
87 diabetes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015, and applicable to sales occurring on and after said date</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section

KID *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Public Health, Dept.	GF - Revenue Gain	62.1 million	86.2 million
Department of Revenue Services	GF - Cost	507,000	247,000
Public Health, Dept.	GF - Cost	Up to 237,100	Up to 432,500
State Comptroller - Fringe Benefits ¹	GF - Cost	148,457	220,482

Municipal Impact: None

Explanation

The bill results in revenue gain of \$62.1 million in FY 16 and \$86.2 million in FY 17 by imposing a tax of one cent per fluid ounce on soft drinks, as defined by the bill. The bill creates a "soft drink tax account" and requires the Commissioner of Revenue Services to deposit the revenue generated by this tax into the account.

The bill results in a total cost of up to \$892,557 in FY 16 and \$899,982 in FY 17 to administer the tax and the funds generated by the tax.

Tax Administration

To administer the newly established tax, DRS would require one Tax Corrections Examiner (\$55,000 for salary and \$21,258 for fringe costs) to verify the accuracy of tax returns and three Revenue Examiners (\$64,000 for salary and \$24,736 for fringe costs per position)

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.65% of payroll in FY 16 and FY 17.

for audit and enforcement, resulting in a total annualized cost of \$342,466 beginning in FY 16. This estimate is based on the administrative requirements for other state trust taxes.²

The DRS would also incur a one-time cost of approximately \$260,000 in FY 16 for form development and printing, changes to the online Taxpayer Service Center (TSC) associated with electronic filing, and programming changes to the Department's Integrated Tax Administration System (ITAS). It is anticipated that DRS administrative costs will be funded through the revenue generated by the tax.

Department of Public Health Administration (DPH)

The bill requires DPH to use funds in the soda tax account for education and outreach regarding obesity, heart disease and diabetes. The implementation of the education and outreach is not defined by the bill.

It is expected that DPH will undertake the education and outreach required under the bill by establishing a community grant process. The agency may require additional staff to oversee the development of the Request for Proposal (RFP) process through which grants would be distributed. It is anticipated that funding for positions will be provided through the soda tax account. Additional staff may include one Nurse Consultant and three Health Program Associates (one for each program area: obesity, heart disease and diabetes) with a half year cost of approximately \$137,100 in FY 16 and a full year cost of \$323,500 in FY 17 would be required. In addition, the bill will require an additional cost of \$52,991 in FY 16 and \$125,016 in FY 17 for fringe benefits.

The agency may also require an Advisory Board to oversee the disbursement of grant funding which may result in an annual cost of

² Trust taxes in this context are those which are not paid directly by taxpayers but rather are collected and aggregated by an intermediary and remitted by that third party to the Department of Revenue Services. Other examples include the Sales and Use Tax and the Withholding portion of the Personal Income Tax.

\$50,000 to \$100,000.

It is anticipated that the majority of the remaining funding will be distributed as grants through an RFP process. This process will be used to identify community-based partnerships which will likely include municipalities, healthcare systems, non-profits, businesses, regional planning organizations and schools to provide research-based interventions to address obesity, diabetes and heart disease.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: *UConn Rudd Center*
Beverage Marketing Corporation
Massachusetts Community and Prevention Wellness Trust Fund

OLR Bill Analysis**sHB 5461*****AN ACT IMPOSING A TAX ON SUGARY SOFT DRINKS.*****SUMMARY:**

This bill imposes a one cent per ounce tax on retail purchases of soft drinks (i.e., carbonated nonalcoholic beverages intended for human consumption that contain added caloric sweetener) and directs the revenue from the tax to DPH to fund obesity education and outreach programs. The bill requires the Department of Revenue Services (DRS) commissioner to administer the tax, which applies in addition to other taxes on retail sales of soft drinks (i.e., sales and use taxes).

Under the bill, retailers must collect the tax from customers at the point of sale and remit it to DRS. The bill requires the DRS commissioner to deposit the revenue into the soft drink tax account, which the bill creates. With the Office of Policy and Management (OPM) secretary's approval, the DRS commissioner may deduct and retain administrative costs from the revenue.

Retailers who fail to remit the tax to DRS with a tax return on a monthly basis are subject to a penalty for each full or partial month that the tax remains unpaid.

EFFECTIVE DATE: October 1, 2015

TAX COLLECTION AND ADMINISTRATION

The bill requires (1) consumers to pay the tax to retailers and (2) retailers to collect it from consumers. Retailers must remit tax payments and file signed tax returns monthly, on a DRS-prescribed form. The returns must include the amount of tax due for the preceding month.

The commissioner may allow or require returns and tax payments more or less frequently if necessary to ensure payment or facilitate tax collection.

The commissioner may also extend the time for filing a return and paying the tax for good cause if the retailer applies for an extension, files a tentative return, and pays an estimated amount by the original due date. In addition to the tax, a retailer who receives an extension must pay 1% interest for each month or partial month on any amount that would have been due without the extension.

The commissioner must administer the tax and prescribe and furnish any forms necessary and proper for its enforcement. The bill allows the commissioner to prescribe regulations in accordance with the Uniform Administrative Procedures Act to administer the tax. The regulations and subsequent administrative rulings, when reasonably designed to carry out the bill's intent and purpose, are prima facie evidence of the bill's proper interpretation. The commissioner must publish annually, or more often at his discretion, all such regulations and any related ruling that appear to him to be of general interest.

TAX ENFORCEMENT

Under the bill, unpaid taxes are subject to a penalty of 15% of the unpaid amount or \$50, whichever is greater, plus 1% interest for each full or partial month that the tax remains unpaid. The commissioner may waive all or part of the penalty if he is satisfied that the failure to pay was due to reasonable cause and was not intentional or due to neglect. The Penalty Review Commission must review and approve all penalty waivers over \$1,000 in the same way it already approves waivers by the commissioner.

In addition, the bill applies the same enforcement, liability, and appeal process requirements established in statute for the admissions and dues taxes to the soft drink tax and requires them to be adapted accordingly. Under these provisions, the DRS commissioner can (1) assess tax deficiencies where necessary; (2) require the retailers to keep

certain records and examine all of their records; and (3) administer oaths, subpoena witnesses, and receive testimony. The retailers can file for a refund for tax overpayments, request a hearing on the amount of taxes they are required to pay, and appeal the hearing decision if aggrieved. Lastly, an additional penalty may be imposed on retailers for willful violations or filing fraudulent returns.

SOFT DRINK TAX ACCOUNT

Under the bill, the soft drink tax account is a separate, nonlapsing account within the General Fund. The bill requires DPH to use the funds for obesity education and outreach, including child obesity, heart disease, and diabetes.

Quarterly, beginning by December 31, 2015, the DRS commissioner must deposit the tax proceeds into the soft drink tax account. The commissioner may deduct or retain administrative costs from the revenue before depositing it in the account, if he first notifies, and receives approval from, OPM.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 7 Nay 6 (03/05/2015)